

**Introduced by Senator Soto**  
**(Principal coauthor: Senator Speier)**  
(Principal coauthor: Assembly Member Torrico)

February 22, 2005

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An act to amend Section 1877.1 of, and to add Section 1877.35 to, the Insurance Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to insurance fraud.

LEGISLATIVE COUNSEL'S DIGEST

SB 697, as introduced, Soto. Insurance fraud.

(1) Existing law requires an insurer, upon written request of an authorized governmental agency, as defined, to release to the agency all relevant information deemed important to the agency that the insurer may possess relating to any specific workers' compensation insurance fraud investigation.

This bill would authorize the Public Employees' Retirement System to obtain information from an insurer for purposes of determining the eligibility of a member, or unlawful application or receipt of benefits, under the Public Employees' Retirement System, and would add the Public Employees' Retirement System to the list of authorized governmental agencies to which an insurer is required to release that information, as specified.

(2) Existing law authorizes the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes.

This bill would additionally authorize the director to release specified information to the Public Employees' Retirement System.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1877.1 of the Insurance Code, as amended by Section 1 of Chapter 490 of the Statutes of 2004, is amended to read:

1877.1. The following definitions govern the construction of this article, unless the context requires otherwise:

(a) “Authorized governmental agency” means the district attorney of any county, any city attorney whose duties include criminal prosecutions, any law enforcement agency investigating workers’ compensation fraud, the office of the Attorney General, the Department of Insurance, the Department of Industrial Relations, the Employment Development Department, the Department of Corrections, *the Public Employees’ Retirement System*, and any licensing agency governed by the Business and Professions Code.

(b) “Relevant” means having a tendency to make the existence of any fact that is of consequence to the investigation or determination of an issue more probable or less probable than it would be without the information.

(c) “Insurer” means an insurer admitted to transact workers’ compensation insurance in this state, the State Compensation Insurance Fund, an employer that has secured a certificate of consent to self-insure pursuant to subdivision (b) or (c) of Section 3700 of the Labor Code, or a third-party administrator that has secured a certificate pursuant to Section 3702.1 of the Labor Code.

(d) “Licensed rating organization” means a rating organization licensed by the Insurance Commissioner pursuant to Section 11750.1.

(e) Information shall be deemed important if, within the sole discretion of the authorized governmental agency, that information is requested by that authorized governmental agency.

SEC. 2. Section 1877.35 is added to the Insurance Code, to read:

1877.35. (a) The Public Employees’ Retirement System may request information from an insurer for any specific investigation of eligibility for, and unlawful application or receipt of, benefits provided under Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code.

1 (b) Information received by the Public Employees' Retirement  
2 System pursuant to this article may be used for purposes of  
3 determining eligibility for, and unlawful application or receipt of,  
4 benefits provided under Part 3 (commencing with Section 20000)  
5 of Division 5 of Title 2 of the Government Code.

6 SEC. 3. Section 1095 of the Unemployment Insurance Code  
7 is amended to read:

8 1095. The director shall permit the use of any information in  
9 his or her possession to the extent necessary for any of the  
10 following purposes and may require reimbursement for all direct  
11 costs incurred in providing any and all information specified in  
12 this section, except information specified in subdivisions (a) to  
13 (e), inclusive:

14 (a) To enable the director or his or her representative to carry  
15 out his or her responsibilities under this code.

16 (b) To properly present a claim for benefits.

17 (c) To acquaint a worker or his or her authorized agent with  
18 his or her existing or prospective right to benefits.

19 (d) To furnish an employer or his or her authorized agent with  
20 information to enable him or her to fully discharge his or her  
21 obligations or safeguard his or her rights under this division or  
22 Division 3 (commencing with Section 9000).

23 (e) To enable an employer to receive a reduction in  
24 contribution rate.

25 (f) To enable federal, state, or local government departments  
26 or agencies, subject to federal law, to verify or determine the  
27 eligibility or entitlement of an applicant for, or a recipient of,  
28 public social services provided pursuant to Division 9  
29 (commencing with Section 10000) of the Welfare and  
30 Institutions Code, or Part A of Title IV of the Social Security  
31 Act, where the verification or determination is directly connected  
32 with, and limited to, the administration of public social services.

33 (g) To enable county administrators of general relief or  
34 assistance, or their representatives, to determine entitlement to  
35 locally provided general relief or assistance, where the  
36 determination is directly connected with, and limited to, the  
37 administration of general relief or assistance.

38 (h) To enable state or local governmental departments or  
39 agencies to seek criminal, civil, or administrative remedies in  
40 connection with the unlawful application for, or receipt of, relief

1 provided under Division 9 (commencing with Section 10000) of  
2 the Welfare and Institutions Code or to enable the collection of  
3 expenditures for medical assistance services pursuant to Part 5  
4 (commencing with Section 17000) of Division 9 of the Welfare  
5 and Institutions Code.

6 (i) To provide any law enforcement agency with the name,  
7 address, telephone number, birth date, social security number,  
8 physical description, and names and addresses of present and  
9 past employers, of any victim, suspect, missing person, potential  
10 witness, or person for whom a felony arrest warrant has been  
11 issued, when a request for this information is made by any  
12 investigator or peace officer as defined by Sections 830.1 and  
13 830.2 of the Penal Code, or by any federal law enforcement  
14 officer to whom the Attorney General has delegated authority to  
15 enforce federal search warrants, as defined under Sections 60.2  
16 and 60.3 of Title 28 of the Code of Federal Regulations, as  
17 amended, and when the requesting officer has been designated by  
18 the head of the law enforcement agency and requests this  
19 information in the course of and as a part of an investigation into  
20 the commission of a crime when there is a reasonable suspicion  
21 that the crime is a felony and that the information would lead to  
22 relevant evidence. The information provided pursuant to this  
23 subdivision shall be provided to the extent permitted by federal  
24 law and regulations, and to the extent the information is available  
25 and accessible within the constraints and configurations of  
26 existing department records. Any person who receives any  
27 information under this subdivision shall make a written report of  
28 the information to the law enforcement agency that employs him  
29 or her, for filing under the normal procedures of that agency.

30 (1) This subdivision shall not be construed to authorize the  
31 release to any law enforcement agency of a general list  
32 identifying individuals applying for or receiving benefits.

33 (2) The department shall maintain records pursuant to this  
34 subdivision only for periods required under regulations or  
35 statutes enacted for the administration of its programs.

36 (3) This subdivision shall not be construed as limiting the  
37 information provided to law enforcement agencies to that  
38 pertaining only to applicants for, or recipients of, benefits.

39 (4) The department shall notify all applicants for benefits that  
40 release of confidential information from their records will not be

1 protected should there be a felony arrest warrant issued against  
2 the applicant or in the event of an investigation by a law  
3 enforcement agency into the commission of a felony.

4 (j) To provide public employee retirement systems in  
5 California with information relating to the earnings of any person  
6 who has applied for or is receiving a disability income, disability  
7 allowance, or disability retirement allowance, from a public  
8 employee retirement system. The earnings information shall be  
9 released only upon written request from the governing board  
10 specifying that the person has applied for or is receiving a  
11 disability allowance or disability retirement allowance from its  
12 retirement system. The request may be made by the chief  
13 executive officer of the system or by an employee of the system  
14 so authorized and identified by name and title by the chief  
15 executive officer in writing.

16 (k) To enable the Division of Labor Standards Enforcement in  
17 the Department of Industrial Relations to seek criminal, civil, or  
18 administrative remedies in connection with the failure to pay, or  
19 the unlawful payment of, wages pursuant to Chapter 1  
20 (commencing with Section 200) of Part 1 of Division 2 of, and  
21 Chapter 1 (commencing with Section 1720) of Part 7 of Division  
22 2 of, the Labor Code.

23 (l) To enable federal, state, or local governmental departments  
24 or agencies to administer child support enforcement programs  
25 under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et  
26 seq.).

27 (m) To provide federal, state, or local governmental  
28 departments or agencies with wage and claim information in its  
29 possession that will assist those departments and agencies in the  
30 administration of the Victims of Crime Program or in the  
31 location of victims of crime who, by state mandate or court order,  
32 are entitled to restitution that has been or can be recovered.

33 (n) To provide federal, state, or local governmental  
34 departments or agencies with information concerning any  
35 individuals who are or have been:

36 (1) Directed by state mandate or court order to pay restitution,  
37 fines, penalties, assessments, or fees as a result of a violation of  
38 law.

39 (2) Delinquent or in default on guaranteed student loans or  
40 who owe repayment of funds received through other financial

1 assistance programs administered by those agencies. The  
2 information released by the director for the purposes of this  
3 paragraph shall not include unemployment insurance benefit  
4 information.

5 (o) To provide an authorized governmental agency with any or  
6 all relevant information that relates to any specific workers'  
7 compensation insurance fraud investigation. The information  
8 shall be provided to the extent permitted by federal law and  
9 regulations. For the purposes of this subdivision, "authorized  
10 governmental agency" means the district attorney of any county,  
11 the office of the Attorney General, the Department of Industrial  
12 Relations, and the Department of Insurance. An authorized  
13 governmental agency may disclose this information to the State  
14 Bar, the Medical Board of California, or any other licensing  
15 board or department whose licensee is the subject of a workers'  
16 compensation insurance fraud investigation. This subdivision  
17 shall not prevent any authorized governmental agency from  
18 reporting to any board or department the suspected misconduct of  
19 any licensee of that body.

20 (p) To enable the Director of the Bureau for Private  
21 Postsecondary and Vocational Education, or his or her  
22 representatives, to access unemployment insurance quarterly  
23 wage data on a case-by-case basis to verify information on  
24 school administrators, school staff, and students provided by  
25 those schools who are being investigated for possible violations  
26 of Chapter 7 (commencing with Section 94700) of Part 59 of the  
27 Education Code.

28 (q) To provide employment tax information to the tax officials  
29 of Mexico, if a reciprocal agreement exists. For purposes of this  
30 subdivision, "reciprocal agreement" means a formal agreement to  
31 exchange information between national taxing officials of  
32 Mexico and taxing authorities of the State Board of Equalization,  
33 the Franchise Tax Board, and the Employment Development  
34 Department. Furthermore, the reciprocal agreement shall be  
35 limited to the exchange of information that is essential for tax  
36 administration purposes only. Taxing authorities of the State of  
37 California shall be granted tax information only on California  
38 residents. Taxing authorities of Mexico shall be granted tax  
39 information only on Mexican nationals.

1 (r) To enable city and county planning agencies to develop  
2 economic forecasts for planning purposes. The information shall  
3 be limited to businesses within the jurisdiction of the city or  
4 county whose planning agency is requesting the information, and  
5 shall not include information regarding individual employees.

6 (s) To provide the State Department of Developmental  
7 Services with wage and employer information that will assist in  
8 the collection of moneys owed by the recipient, parent, or any  
9 other legally liable individual for services and supports provided  
10 pursuant to Chapter 9 (commencing with Section 4775) of  
11 Division 4.5 of, and Chapter 2 (commencing with Section 7200)  
12 and Chapter 3 (commencing with Section 7500) of Division 7 of,  
13 the Welfare and Institutions Code.

14 (t) Nothing in this section shall be construed to authorize or  
15 permit the use of information obtained in the administration of  
16 this code by any private collection agency.

17 (u) The disclosure of the name and address of an individual or  
18 business entity that was issued an assessment that included  
19 penalties under Section 1128 or 1128.1 shall not be in violation  
20 of Section 1094 if the assessment is final. The disclosure may  
21 also include any of the following:

22 (1) The total amount of the assessment.

23 (2) The amount of the penalty imposed under Section 1128 or  
24 1128.1 that is included in the assessment.

25 (3) The facts that resulted in the charging of the penalty under  
26 Section 1128 or 1128.1.

27 (v) To enable the Contractors' State License Board to verify  
28 the employment history of an individual applying for licensure  
29 pursuant to Section 7068 of the Business and Professions Code.

30 (w) To provide any peace officer with the Division of  
31 Investigation in the Department of Consumer Affairs information  
32 pursuant to subdivision (i) when the requesting peace officer has  
33 been designated by the Chief of the Division of Investigations  
34 and requests this information in the course of and in part of an  
35 investigation into the commission of a crime or other unlawful  
36 act when there is reasonable suspicion to believe that the crime or  
37 act may be connected to the information requested and would  
38 lead to relevant information regarding the crime or unlawful act.

39 (x) *To enable the Public Employees' Retirement System to*  
40 *seek criminal, civil, or administrative remedies in connection*

- 1 *with the unlawful application for, or receipt of, benefits provided*
- 2 *under Part 3 (commencing with Section 20000) of Division 5 of*
- 3 *Title 2 of the Government Code.*

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